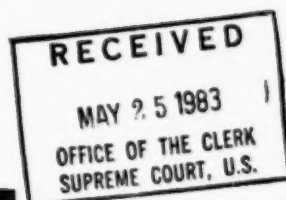


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May 23, 1983

Honorable Alexander L. Stevas
Clerk of the United States Supreme Court
Supreme Court Building
Washington, D.C. 20543

Re: Ruiz v. Illinois, No.
82-6466

Dear Mr. Stevas:

Petitioner's assertion that respondent has made false representations to the Court regarding the record impels this correspondence.

At page 2 of his reply memorandum, petitioner states that the constitutionality of Ill. Rev. Stat. 1979, ch. 38, pars. 9-1(c) and (e), which permits the sentencing authority to consider evidence of non-statutory aggravating factors in deciding whether the death penalty should be imposed, was specifically challenged in a reply brief before the Illinois Supreme Court. He labels as a false assertion respondent's statement that no such claim was raised below.

The matter is disposed of, and respondent's position vindicated, by reference to Illinois Supreme Court Rule 341(e)(7) [Ill. Rev. Stat. 1979, ch. 110A, par. 341(e)(7)], which provides, in pertinent part:

Points not argued [in the brief] are waived
and shall not be raised in the reply brief,
in oral argument, or on petition for rehearing.

This rule is specifically made applicable to criminal cases by Supreme Court Rule 612(i), [Ill. Rev. Stat. 1979, ch. 110A, par. 612(i)].

While I would not for a moment question the State Appellate Defender's duty to zealously represent criminal defendants, I submit that this duty can be fully discharged without wrongly attributing to opposing counsel a purpose to deceive the Court as to the true state of the record.

I would appreciate your bringing this letter to the attention of the Justices when this case is presented to them for disposition.

Respectfully,

Michael B. Weinstein

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cc: Theodore Gottfried

MBW/nr